IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

CRL.A.No. 2147 of 2003()

AGAINST THE JUDGEMENT/ORDER IN CC.1712/1999 Dated 23/07/2003
CRLP.472/2003 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O),ERNAKULAM

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APPELLANT: COMPLAINANT:

MUTHOOT LEASING AND FINANCE LTD.
AN INCORPORATED COMPANY HAVING ITS REGISTERED
OFFICE PREETHI BUILDINGS, VYTTILA, ERNAKULAM,
REPRESENTED BY ITS CITY BRANCH MANAGER,
MR.K.RAMACHANDRAN.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)
SMT.MERLIN MATHEW

RESPONDENTS: ACCUSED AND STATE:

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1. M/S. C.K.THOMAS AND CO., CHEMPAKASSERY,
RESIDENCY ROAD, KADAPPAKKADA, QUILON, REP.BY IT'S
MANAGING PARTNER, SRI.MANUEL THOMAS,CHEMPAKASSERY,
RESIDENCY ROAD, KADAPPAKKADA, QUILON.

2. MRS.LILLY THOMAS, W/O.LATE C.K.THOMAS
(PARTNER, C.K.THOMAS & CO.), CHEMPAKASSERY,
RESIDENCY ROAD, KADAPPAKKADA, QUILON.

3. SRI.MANUEL THOMAS, S/O.LATE C.K.THOMAS,
MANAGING PARTNER, C.K.THOMAS & CO.,CHEMPAKASSERY,
RESIDENCY ROAD, KADAPPAKKADA, QUILON.

4. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.2147 of 2003

Dated this the 26th day of September, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the complainant was absent due to unavoidable circumstances.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 29.10.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl